

January 7, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

— ★ —
JOHN CORNYN
Attorney General

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P.O. Box 12548
Austin, Texas
78711-2548
(512) 463-2100
www.oag.state.tx.us

Ms. E. Cary Grace
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR99-0024

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 121063.

The City of Houston (the "city") received a request for the identity of the person or entity who reported alleged violations of deed restrictions at a certain address. You claim that the requested information is excepted from disclosure by section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

You state that the complainant's identity in this case is protected by the "informer's privilege." You have marked those portions of the materials that you believe are protected. The informer's privilege has been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988).

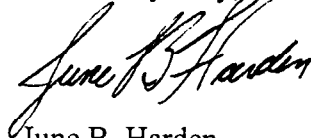
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In this instance, you explain that the complaint at issue involves alleged violations of real property deed restrictions. You state that the city is authorized to enforce the restrictions and that violations are subject to civil penalties. After reviewing your arguments and the submitted documents, we conclude that you may withhold the highlighted portions of the documents and the information we have marked under the informer's privilege.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" and last name "Harden" clearly distinguishable.

June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 121063

Enclosures: Marked documents

cc: Mr. Alex Ferro
Lexon Construction, Inc.
2302 Wordsworth
Houston, Texas 77030
(w/o enclosures)